UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/036,236	03/06/1998	DAVID M. OLIVER	005-905-300	5721

20433 7590 06/03/2005	EXAMINER
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ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/036,236	OLIVER ET AL.
	Examiner	Art Unit
	Jeffrey A. Smith	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _07 March 2005_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-82_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-82_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114,
including the fee set forth in 37 CFR 1.17(e), was filed in this
application after final rejection. Since this application is
eligible for continued examination under 37 CFR 1.114, and the
fee set forth in 37 CFR 1.17(e) has been timely paid, the
finality of the previous Office action has been withdrawn
pursuant to 37 CFR 1.114. Applicant's submission filed on March
7, 2005 has been entered.

Response to Amendment

The response filed March 7, 2005 has been entered and
considered.

Claims 1-82 are pending.

Drawings

The proposed drawings corrections filed October 7, 1999
have been approved. Formal drawings are now required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-82 are rejected under 35 U.S.C. 102(b) as being

based upon a public use <u>and</u> sale of the invention.

Evidence of a public use and sale of the invention more

than one year prior to Applicant's earliest priority date of

March 7, 1997 is provided as follows:

Exhibit	Description
A	"Newshare: One-bill, universal-password access to Internet information available by subscription or 'by click' early next year via Newshare Corps.'s 'Clickshare' publishing system; advertisers can track systemwide visits by anonymous user"; Business Wire; Business Editors; September 15, 1995.
B	"Clickshare Server Beta Available in October"; Newsbytes News Network; September 15, 1995.
C	"Tracking Transactions"; Internet Week, v1, n30; Oct. 20, 1995.
D	"Digital Syndication Headache Removed Through Newshare"; Telecomworldwire; Sept. 18, 1995.
E	"Newshare Corp: Newshare corp.'s Clickshare software makes possible digital syndicates"; M2 Presswire; Sept 15, 1995.
F	"Newshare's Digital Online Writers' Syndicate 09/12/95"; Newsbytes; Sept 12, 1995.
G	"Special Newshare Publishing Members Rates", Newshare Release; Copyright 1995.
H	Johnson, Craig A.: "Newshare Corp. letter on 'indecent' language"; Dec. 9, 1995.
I	"Clickshare(sm) Registration"; Newshare/Clickshare Release; Copyright 1995.
J	"What is Clickshare(sm)? A Short Summary"; Newshare/Clickshare Release; Copyright 1995.
K	"Building a free market for digital information"; presented at the Interactive Newspapers '96 Conference; San Francisco CA, USA; February 22, 1996.
L	"Questions often asked by prospective Clickshare publishers"; Newshare Release; Copyright 1995.
M	"Clickshare Universal-ID, Profiling and Micro-Transaction System Enters Alpha; Personalized 'Test Drives' Begin"; News Corp. Release dated Oct. 24, 1995; Red Rock Eater Digest; Aug. 18, 2003.
N	"How the Web was Won"; Clickshare/Newshare Press Release; Sept. 15, 1995.
O	"Clickshare(sm) alpha up; 'test drives' available"; Newshare Corp. Release; October 26, 1995.
P	"Newshare(sm): Interim Publishing Membership Enrollment Information"; Newshare/Clickshare Release; page updated 09-22-95.

This evidence, taken as a whole, shows that the invention, as claimed, was both "ready for patenting" and in "public use" and "on-sale" more than one year prior to March 7, 1997. The evidence, when taken as a whole, also shows that there were significant factors indicative of "commercial exploitation" of the invention and that the beta testing phase of the development did not constitute a permissible "experimental use" of the Newshare/Clickshare system and method.

The Examiner notes that various Exhibits refer to "beta-testing" of the invention. An invention has reached "beta" stage when it is operating with most of its functionality, and is ready for user feedback. During the beta test, end users who will likely use the software perform testing and provide feedback to the developers.

Exhibit A indicates that "[w]hile the system as introduced at beta will be capable of handling payment transactions, we want to give it a workout before doing so".

Exhibit F indicates that "Clickshare can be described as a 'transaction clearing system,' like a credit card network, which will pay not only writer royalties, but publishers' commissions as well".

Exhibit H quotes William Densmore, Jr. (a co-inventor) as
stating "Newshare Corp. and its Clickshare Corp. affiliate have
developed the first functioning system for enabling the
emergence of a free-market for digital information. We do this
via the transfer of mirco-transaction settlement and audience-
measurement data among multiple, independent publishers". Mr.
Densmore, Jr. further states that "much like a bank ATM network
or the Visa settlement system, we make connections and
transactions possible".

Exhibit J indicates that the "[the Clickshare service] is
available now to qualified users as a beta product" and that
their backend service network tracks data which is "aggregated
and forms the basis of a system, much like an ATM network, for
charging activity back to the credit-home of the user, clearing
commissions, royalties and transaction fees".

The Exhibits provide evidence that the invention, as
claimed, was ready for patenting at least at the beta phase of
testing. However, Exhibit L is particularly telling of the
nature of the "testing". Exhibit L contains a plurality of
questions that are assembled as those most often asked (i.e.
Frequently Asked Questions (FAQs)) of Newshare by its
prospective clients.

One such question follows:

"Q: Can a content provider enroll now in the Newshare
system? What are the benefits?".

The answer to this question is:

"A: Yes. Newshare Corp. is already enrolling beta
Publishing Members with payment of a $100 fee prior to the
availability of the Clickshare(sm) 'charge-per-click'
server software. There are several benefits to enrollment
in advance of the charge-per-page service operation:

-      The right to participate in the design of ancillary
       details of the technical and editorial context
       services.

-      Designation, for a negotiated fee, as a 'lead
       Publishing Member' in at least one Newshare Syndicate
       topic area. This results in top-level referrals from
       Newshare topic pages when users request customer
       information."

Such Answer indicates that there was a fee associated with the

testing which entitled beta testing members (identified as

"technical members" in Exhibit B) to premier benefits. Such

Answer also indicates that Newshare Corp. was merely soliciting

feedback from such beta testers for the purpose of completing

design of "ancillary details". This evidence shows that the

invention had been reduced to practice and was "ready for

patenting" by the time Newshare Corp. had begun enrolling beta

testing participants. Permissible "experimental use" ends when

the invention is actually reduced to practice. MPEP

2133.03(e)(3).

The Examiner further notes that the Exhibits are replete with broadcasts that detail the structure and functionality of the invention. Often, discussions of "testing" phases are accompanied by commercial promotions of the invention either of current invention status or of highly confident proclamations that potential clients should expect certain functionality at least by the time of their enrollment with the invention. The Examiner particularly notes price schedules for enrollment in Exhibits A, B, C, G, N, O, P, and L. This evidence shows that Applicant's subjective intent for the broadcasts and testing phases was not primarily (or even reasonably) limited to readying the invention for patenting, but were contemporaneously intended for the purposes of stimulating the acceptance of the invention by enticing pre-enrollment of participants-- particularly by offering them "early-in"-type incentives such as premier fee structuring and premier "Charter Member" benefits.

Details of the structure and functionality of the Newshare/Clickshare system and method follow.

Exhibit O, for instance, discloses the following:

Newshare Corp. Oct 26 1995, 3:00 am

**CLICKSHARE UNIVERSAL-ID, PROFILING AND
MICRO-TRANSACTION
SYSTEM ENTERS ALPHA; PERSONALIZED "TEST
DRIVES" BEGIN**

WILLIAMSTOWN, Mass., Oct. 23 -- Newshare
Corp. begins shipping to selected publishers
this week the alpha version of its
breakthrough Clickshare(SM) system to track
and settle Internet-wide micro-transactions.

"Clickshare removes one of the biggest
barriers to the evolution of the Internet by
giving users universal-ID access to a free
market for digital information," said Bill
Densmore, Newshare president and cofounder.
"Yet the information -- and the user

relationship -- remain physically controlled
by the publisher."

Clickshare's personal Newshare(sm) topic-
profiling and custom-linking facilities are
open for public use at
http://www.clickshare.com/tryit.html.
Transaction-handling
capabilities, and an initial base of
Publishing Members, will be
launched in early 1996.

"At that point, publishers will be able to
sell each others'
information for as little as a dime per
click, exchanging royalties and commissions
seamlessly," added Densmore. "Internet
Service Providers will be able to act as on
ramps into this content universe as well."

Clickshare requires no special software for
consumers beyond their Web browser and costs
a publisher as little as $795 to join.
Publishers can sell information by
subscription or per-query to their own
users, and set all pricing. Newshare is now
soliciting a broader group of "beta"
publishers.

"Publishers thinking toward the next century
want to maintain a
close relationship with their users," says
David M. Oliver, Newshare's managing
director-technology and principal Clickshare
author. "And this implies registering them,
profiling their interests and preferences,
authenticating and verifying their use of
resources, and billing them for charged
items. Clickshare does this for publishers
and for users in background, not in-your-
face."

WHAT IS CLICKSHARE(sm)?

Clickshare is a complete, distributed, user-
management system
which provides the only true third-party
validation of web usage. It differentiates
"eyeballs" rather than just counting them.
It protects personal privacy and the
publisher/subscriber relationship.

Clickshare(SM) permits consumers to access
information on
multiple, unrelated Internet Web servers
with a single ID and
password. It gives publishers revenues not
only from their own
information but from the information their
users buy elsewhere. And it gives
advertisers the best way to measure web
traffic by specific user.

"Clickshare's versatile architecture is core
technology for a
worldwide free market for digital
communications -- a true information
exchange," said Densmore.

Newshare Corp., is based in Berkshire
County, Massachusetts, a
region which has spawned several multimedia
startups because of its high quality-of-
life, accessibility to New York and Boston
and good talent pool. Formed in September,
1994, it is privately held.

HOW IT WORKS

Clickshare has two principal components,
Oliver says.
Clickshare-enhanced Web server software runs
on publishers' computers as a primary piece
of controlling software or as an adjunct to
other UNIX-based server software. It logs
user registration, authentication,
personalization and micro- transactions.

The second piece of essential software, the
Clickshare token-validation service (TVS)
server, is run by Newshare Corp. or
licensees. It creates and validates
authentication tokens, brokers non-personal
user preferences among publishers, and
maintains "page visit" records from multiple
independent sites sortable by anonymous user
number, page visited and site ID.

"At no time does Clickshare know a user's
name or demographic
profile," says Oliver. "Only the user's
home-base publisher has this information."

Clickshare has been called a an example of
"wise thinking" (Steve Outing, Editor &
Publisher Interactive, Sept. 18, 1995) and
"the excelsior that will allow web
businesses to sell information by the page"
(WEBster, Oct. 3, 1995).

Each user has a single "home base" at a
Publishing Member (likely to be a local or
specialty publication with whom they have a
continuing relation). Clickshare users
register just once with their home base,
providing credit-card information by phone,
fax, mail or secure Internet connection. At
no time do credit-card numbers or other
personal information traverse the Clickshare
system.

Thereafter, a user begins a Clickshare(sm)
session as simply as
logging in to the online world in the first
place. The user must enter a personal ID and
password just once during each session.
In response, their home Publishing Member
provides them a personalized, updated,
jumpoff page of useful links, based on the
personal topical-interest profile the user
provided at initial registration.

As they browse effortlessly to Clickshare-
enabled and other sites, users can be
confident that the link between their
identity and their tracks does not go beyond
their home Publisher. Clickshare provides
mechanisms to establish charge limits and
receive periodic reports of charges.

The Clickshare-enhanced Web Server -- which
is browser independent -- is provided to
Member Publishers by Newshare Corp. free
under license. Newshare's back-end service
network exchanges data with the Internet
servers of Clickshare-enabled sites,
validating users and tracking all discrete
page accesses -- chargeable or free --
across every participating site.

Clickshare tracks content served to users
regardless of the location of their "home"
Publishing Member. Aggregate micro- charges,
settled monthly or more frequently,
allocating commissions, royalties and
transaction fees, thus form the basis of a
system resembling an ATM network.

Clickshare leaves to each Publishing Member
the marketing contours of its relationship
to its customers. Each Publishing Member is
thus free to use its own model for user
subscription or per-page rates.

A portion of all fees accumulated by a user
for all visited Clickshare-enabled sites is
retained by the user's home Publishing
Member. This is termed a "referral
commission." And Newshare retains a portion
for its role in tracking and clearing
transactions. At least 50 percent of each
transaction goes to the content owner as a
royalty.

MORE THAN IP NUMBERS

Beyond the model of payment for access to
information, because it tracks known users
(rather than Internet Protocol (IP)
numbers), Clickshare may also serve as a
third-party circulation/viewership auditing
mechanism for the advertising and publishing
industry, while leaving to users control of
release of demographic and other data, and
respecting their desires for privacy.

"This transparent and efficient mechanism
makes it economically
practical to bill information purchases of
as little as a dime and possibly less," says
Oliver. "Thus Clickshare provides the
platform on which the consumer of the 21st
century can freely and conveniently access
independently owned information worldwide,
paying through existing credit structures."

Exhibit L, for instance, discloses the following:

**Q: You call Clickshare a "service," not a
network. Why?**

A: Clickshare is not a network (implying a
physical infrastructure), but rather a
network protocol (software) which operates
across a physical network employing TCP/IP
and HTTP. The Internet is such a network.

Clickshare's protocol provides a suite of
services to publishers who adopt it. These
include universal, one-ID registration,
session-based user validation, user
profiling (to support personalization and
demographic-data collection) and user-access
verification (the latter supporting per-
query, per page or per "click" billing).

The Clickshare(SM) facility to be
demonstrated in October by Newshare Corp.
permits owners of proprietary content to
offer it via the Internet. Clickshare
customers can obtain and pay for it readily;
non-Clickshare users will be unable to view
the content unless they first enroll and
arrange a form of payment.
But as important, Clickshare users are free
to use the vast FREE resources of the
Internet seamlessly and even jump back and
forth between free and PAID resources
without difficulty. And Clickshare
Publishing Members may provide a mix of
chargeable and free content on their web
sites -- some of it open to the general
Internet user and some open only to Newshare
users.
In this sense, Clickshare is not a
technology network but a loose affiliation
of content providers for billing purposes
only. It has been described as a system
enabling "billable hypertext links."

**Q: Is there anything else out there like
Clickshare?**

A: Not that we know of. Unlike a
relationship with a proprietary network or
online service, the Clickshare Publishing
Member maintains and controls the primary
relationship with the end user as well as
the look and feel of content provided.
Clickshare's role is as a back-room
authentication and payment facilitator and -
- at the Publishing Member's option -- as a
context-provider for Newshare-enabled
content of other unrelated Publishing

Members. This later service is provided by
the Newshare Syndicate.

**Q: How much does it cost for a content
provider to become a part of the Clickshare
system?**

A: Regardless of size, there is a one-time
membership fee of $795 for Clickshare(sm)
publishing membership. With membership comes
a free license to use Clickshare(sm)-
enhanced server software for user
registration. This fee may be paid upon
enrollment or it may be debited from the
Publishing Member's clearing account as a
percentage of ongoing royalty payments. The
Publisher Member is also charged a fee of
$1.00 per year, payable quarterly, for each
of the first 10,000 end-users who register
to use Clickshare through their site. A
publisher will never pay more than 15% of
gross information charges to their users.
That fee may also be financed via
"clickstream" royalties or commissions
otherwise due Publishing Member. This per-
user fee is required to finance the scaling-
up of technical facilities, which are
dependent on the total number of users in
the Clickshare(sm) "universe." A Publisher
with 100,000 users puts more "load" on the
system than one with 100 users.

**Q: How does Newshare Corp. make money on an
ongoing basis?**
A: Newshare Corp. makes money in two ways.
First, the contract between Newshare and
each Publishing Member permits Newshare to
deduct a transaction fee from the value of
each unit of "clicked" information handled
by the Clickshare service. This fee, like a
commission, is expected to equal 15 percent
of the transaction amount. Second, Newshare
Corp> expects to realizes revenue from
advertising and sponsorships on its own
World Wide Web site, maintained as a
resource for Clickshare-enabled users.
Finally, Newshare Corp. expects to operate
an advertising-rep firm in behalf of its
Publishing Members.

**Q: Exactly how is a consumer user charged
for his reading, viewing or listening?**

A: Clickshare is WWW-based. A user clicks to
the home page of his Publishing Member,
which might be a newspaper, a trade
publisher or even an Internet service
provider. The PubMbr may "serve" up a
generic home page to all its users, or it

may construct, on the fly, custom home pages for each individual member.

PubMbrs operate an Internet server equipped with the Newshare- enhanced, UNIX-based httpd server (See above). When the user requests a page from anywhere in the Internet universe he will get it back immediately without intervention. If it is content of another Newshare Publishing Member, a record of his request will be made in background.

At the end of the month, his access is totaled and if the value of his "clicks" exceeds his basic monthly fee to his local/topic-specific PubMbr, he pays extra. If it is less, he pays only a basic fee set by the Publishing Member. The only billing and payment relationship at the consumer level is between the PubMbr and the User Member.

The PubMbr draws from or pays into a clearing account at the Newshare corporate/technical level equal to the sum of the PubMbr's user-member clicks -- offset against any original content that the PubMbr has "served" to the global Newshare system. This could be a net positive or negative number for the PubMbr, depending how active a SUPPLIER of content the PubMbr is. If it is positive, he doesn't have to CHARGE his User Members a very high monthly fee to make money. If it is negative, he needs to raise what he is charging his User Members.

Q: When will the Clickshare service being providing billable hypertext links?

A: Our Clickshare(SM) server software will become available for site-specific registration and profiling during our October beta testing, but micro-transaction settlements will not be enabled until after Jan. 1, 1996. To use the Clickshare(sm) system, the Publishing Member's Internet server must run the Clickshare(SM) server software. This will be available from Newshare Corp. based on widely used public-domain server technology. The Clickshare(sm)-enhanced HTTPD server runs on Silicon Graphics IRIX, Sun MicroSystems "SunOS 4.1.3" and "Solaris", and Linux. Providers with other Unix variants should contact Newshare Corp. for information. We will invite other server-software vendors to license and incorporate the Clickshare(sm) code.

Q: Can a content provider enroll now in the Newshare system? What are the benefits?

A: Yes. Newshare Corp. is already enrolling beta Publishing Members with payment of a $100 fee prior to the availability of the Clickshare(SM) "charge-per-click" server software. There are several benefits to enrollment in advance of the charge-per-page service operation:
The right to participate in the design of ancillary details of the technical and editorial context services.
Designation, for a negotiated fee, as a "lead Publishing Member" in at least one Newshare Syndicate topic area. This results in top-level referrals from Newshare topic pages when users request custom information.

A subscriber to the Newshare-UPDATE electronic newsletter which provides current-awareness on the interactive marketplace plus a way to exchange ideas with other Newshare Publishing Members. An "out of the box" start at developing a base of Clickshare-enabled users worldwide.

Q: You have said that the Clickshare(sm)-enhanced server software is free under license. What is the $795 charge for?

A: The $795 is the current one-time fee for a content provider to access the Clickshare(sm) micro-transaction settlement system as a new Publishing Member. The fee opens access to the Clickshare(sm) system for all of the publisher's home-base users who have registered as Clickshare users. They do this with their home-base publisher. For beta-stage Publishing Members, the interim fee is $100 until the transaction-clearance system begins functioning.

The $795 one-time license fee does not have to be paid in a lump sum. It may be paid through a withholding by Newshare of a percentage of royalty payments to the Publishing Member for "clicks" to its charged content. In this way, the Publishing Member pays nothing for the service until it begins to produce revenue.

The $795 fee is uniform for all sizes of Publishing Member. Those with broader, more popular content will benefit more than those with narrow, limited-interest content. Because Newshare's form of compensation is a transaction fee which is a percentage of "click fees," Newshare ultimately makes money when content providers sell content. That creates an incentive for Newshare Corp. to help its members to sell content. It is a classic broker relationship.

Q: Are there any other fees?

A: Yes. Publishing Members are assessed an annual fee of $1 per user enabled. This fee is payable at the end of each quarter and is based upon the number of enabled users at the end of the period. This fee equitably spreads the technology costs of processing

transactions between large publishers and small publishers.

Q: How do publishers provide content to Newshare Corp.?

It is a misconception to think of the Publishing Member as PROVIDING content to Newshare. We expect our Publishing Members to maintain their own content on their own Internet server (or one they purchase space on). Newshare Corp. does two things:

(a) Through the Clickshare(SM) server software, we enable the content provider to track and receive royalties from users who click on content pages; and,

(b) At the PM's option, we provide links to the PM's content via the Newshare Syndicate service. The Publishing Member retains original copyright to the PM's own original material. The Publishing Member also grants a limited license to Newshare to create links to that content and a license to other Newshare Publishing Members to reference and broker the sale of that content to their members at a price set by the originating Publishing Member.

Newshare only makes money when the Publishing Member sells content. In this fashion, Clickshare(sm) preserves the *INDEPENDENCE* of publishers shoulders a share of the financial *RISKS*, yet establishes a framework for *SHARING* of information and users among publishers.

Q: What amount will the per-access User fees be, and how much will the originating publisher get?

A: The Clickshare(SM) system will at the outset permit 16 different pricing levels, but provides the technical capacity for thousands of pricing levels. We expect that these will range from as little as a few pennies per page for low-value-added, "commodity" to several dollars per page for exclusive, time-sensitive material. Our strategy is to keep page costs very low and broker information for which this is an appropriate price. Clickshare(sm) is capable of completing transactions for the purchase of off-line products, as well.

Q: Do users get to approve each information purchase?

The Newshare concept is for users to access content without having to decide before each "click" whether they can afford it.
The Publishing Member sets the price of a page being served. The Publishing Member has complete flexibility in its agreement with users to set a price above which there will

be an "approval screen" displayed before information is purchased. We anticipate that most users will commonly agree to be served information without per-item approval if the price is in the range of 10 cents or less. There is little market research on this topic as it has never been feasible to sell information "by the click" at such a low fee.

Q: Do Newshare Publishing Members have the right to download and publish Clickshare-enabled materials?

A: Absolutely no. Not if you mean "publish" in the conventional sense of the printed page. Newshare's Clickshare(SM) service is not intended to handle royalty settlement for conventional print publishing. It is intended to automate the systematic use of copyrighted material on a one-time, non-commercial basis by individuals. For example, if a newspaper wishes to print a piece of Clickshare-enabled content, it must obtain copyright in a conventional fashion from the original owner. Newshare might facilitate this process manually as a service and Newshare intends to be compatible with variety of "ecash" payment systems which could be used to pay for print publication rights.

Q: Then what does Clickshare charge for?

A: The Clickshare system will charge the clearing account of a Publishing Member whose consumer user "clicks to" World Wide Web-accessible content. The charge is determined by the copyright-owner of the content used and is for one-time, personal use.

Q: How is the user "billed" for the reading or other use of Clickshare-enabled materials?

A: Records of these accesses and charges will be provided by the Clickshare(SM) service to the Publishing Member's server machine on a periodic basis, possibly as often as daily. The Publishing Member may take this data and feed it to whatever billing engine it wishes to use to bill its own members. However, we expect also to be able to recommend approved vendors for this service and it is possible that Newshare Corp. will itself offer a billing facility.

In keeping with our strategic goal of maintaining minimal proprietary roadblocks to the Clickshare service and inviting value-added services from other vendors, we are not specifying or supplying a billing facility initially. We will provide the data required to perform billing, however.

Q: Will Publishing Members who join the Newshare system have to also rename their digital publications to include the Newshare brand in the title?

A: No, unless they wish to be designated as a Newshare lead topic- or geographic-specific partner and then only the name of their electronic product must carry the Newshare name. Newshare believes that information consumers rely upon a recognizable brand to assure them of ease-of-use, quality and accuracy. The phrase "newshare" conveys more precisely than any existing word the concept our service enables. Since the objective is to attract the most number of users to Newshare-enabled content as opposed to some other service's content, a long history of consumer marketing in the free world suggests they way to do this is with a recognizable brand. That is Newshare, a registered service mark of Newshare Corp. However, many publishers may prefer to maintain their own brand's identity and will therefore use only the Clickshare(sm) technology.

Q: Will Publishing Members be under any obligation to link their consumer users to the content of the Newshare Syndicate or other Publishing Members?

A: Not at all. However, a publisher who wishes to obtain additional revenue at no incremental cost would be well advised to "send" its users to Newshare and fellow Publishing Members for content it does not provide locally or topically. Then when its users "click" on fellow member content, they (the originating Publishing Member) receive a referral fee for enabling that "click."

Q: So the only content benefit to publishers is having access to material to use, which may or may not meet their needs or standards?

A: The aim of Newshare is not primarily to provide content for traditional publishing; it is to provide a reliable, one-stop resource (and more particularly a ONE BILL resource) for consumers to find and obtain topic- and geographic-specific, time-sensitive information via the Internet. Newshare and its Publishing Members ENABLE this process, and are financially rewarded as a result, through royalties on their own works and commissions for the sale to their users of other publishers' works.

Q: Will you guarantee the accuracy of reports?

A: Newshare cannot guarantee the accuracy of the copyrighted content of its Publishing Members any more than a newspaper can guarantee the accuracy of the work of all of its news staff. Newshare Publishing Members will be contractually obligated to meet a set of Customer Service Objectives, which will include measurements of accuracy of their content. Publishing Members who do not meet these objective standards will not received extended contracts in Newshare membership, although they will continue to be permitted to use the Clickshare(sm) technical service.

Q: Who is among Newshare's Publishing Members?

A: We have not begun to formally enroll or announce our Publishing Members. In pre-marketing exchanges, dozens of content providers have already expressed interest in participating in the Newshare service. There are three which consented months ago to be "alpha tests" of the concept on our web site. They are Lew Irwin, publisher of Studio Briefing (StudioBrf@aol.com), Alan Hall of QuadNet (hall@quad.vyne.net) and Joe Shea of The American Reporter (joeshea@netcom.com). We expect to announce other alpha partners shortly.

Q: Do all Newshare Publishing Members (as opposed to mere users of the Clickshare(sm) facility) have to supply material? If so, how much of their content?

A: All Publishing Members must make significant content technically available to the worldwide Newshare User Member community. What you put on the WWW is by definition available to any Newshare member, since any Newshare member has access to anything on the WWW. Whether and how much you charge is up to you. If you do not offer any content, you are not a Publishing Member and therefore have no right to put your user members on the Newshare system. This is a "sharing" system not a one-way street.

Q: What else is a Newshare Publishing Member obligated to do?

A: If you are developing content that involves breaking news or "scoops" of any kind you will, by signing the Publishing Member agreement, have one very specific obligation -- to make that news available on a timely basis via the Clickshare(sm) technology and the Newshare context and personalization system. You are not surrendering your copyright -- if it is a hot story, and millions of people "click" to it on your server, you make millions of pennies. So this creates an obvious

incentive to ALERT the Newshare community to the existence of your story so users will FIND it and READ IT.

Q: Could a publisher just supply material and get paid for it, with Newshare charging a transaction fee -- without the publisher paying other dues or fees?

A: Other than the $795 license fee and the per-user enablement fee, there are no other dues or fees except when you SELL your content or when one of your users BUYS content from another content provider. In the former case, you make money, in the later case it is your user, not you, who pays (unless you are going to pay your users' click fees for them).

Q: I have heard that the major online services -- America Online and Prodigy in particular -- have adopted the practice of storing Web pages of Internet publishers within their own "firewalls" and then serving their millions of users by accessing those "copies" of the real pages. What is the copyright status of this practice?

Prodigy announced months ago that it would "cach" popular Internet website pages on its own servers and providing them to Prodigy members internally. Prodigy said it would do this to provide better speed and reliability to its members. AOL does not deny reports it is doing the same thing. Some legal experts argue that making a digital copy of a document from the Internet, then providing it to hundreds of other users without notifying the originator violates copyright law. But this theory has not been tested in court yet.

Q: Will widespread "caching" of web pages interfere with the operation of the Clickshare(sm) system?

A: Yes and no. Absent secondary technology or service arrangements with the likes of AOL or Prodigy, it would make it impossible to track every click to copyrighted content. But the contract governing admission to the Clickshare(sm) system should take care of this problem administratively.
Here's how: For Prodigy or AOL to access a chargeable Clickshare(sm)-enabled page in the first place, Prodigy or AOL would have to be at minimum a technical member of Clickshare(sm). And the contractual agreement Prodigy would sign with Newshare Corp. will be worded to make grabbing pages for caching a violation of the one-time, personal-use-only agreement -- unless Prodigy also proxies the compensation structure as well.

The online service will employ a Clickshare(sm)-like structure to track access by its own users to pages cached from the Clickshare(sm) system and would provide to Clickshare(sm) individual records of each access for billing. In fact, the online services already have sophisticated systems for tracking the activities of individual users within their closed "universe."

Q: How many "clicks" equals one piece of content. Are all pieces of content valued equally for this purpose?

A: "Click" is shorthand for a Universal Resource Locator (URL) request in HTTP format. Most Clickshare(sm) users access information by the "click" of a keyboard accessory called a "mouse." So one click of the mouse is one page of HTTP material. This turns out to be a highly flexible way of charging for information, both from the user and publisher perspective. Using Clickshare(sm), the publisher can supply text, pictures or sound in response to a user's URL request. And the publisher can apply free-market principles in determining how much information to supply in response to a click and what it should cost. The Clickshare(sm) user makes informed judgments about which information to "click" on based upon its value in terms of price, length or format. When the price is right, the user makes a purchase.

Early application of the Clickshare(sm) system will establish a "market" for the value of typical information sought. We expect that most publishers will offer to supply many resources for prices in the range of 10- to 25-cents and that users will "click" on such content without specific approval required for each purchase. On the other hand, the Clickshare(sm) system will mandate user approval for purchases at higher rates. But the thresholds will be determined by the users and publishers when service is established and can be more or less infinitely customized.

Our expectation is that this will create a self-regulating mechanism for content providers to regulate pricing by the size of the page served; and for users to make content-purchase decisions on the same basis. If they find a content provider serves up minimal pages for 25 cents a pop, they won't click back again.

Q: What about charging different prices to different users and for different types of information?

A: No problem. Embedded in the Clickshare(sm) system is the ability to delineate "page classes" which have

different retail values. This permits a Publishing Member, for example, to have "tiers" of service. One tier might be free content open to the public. The next "tier" might be content open at no charge solely to Clickshare(sm) enabled users. Another "tier" might be open to the Publisher Member's own local users for a monthly flat subscription fee -- and charged "by the click" to remote Clickshare(sm) users. And a final tier might be charged to all users, but at a different price depending whether the user is local or remote. Since the Clickshare(sm) server can identify the "class" of an incoming user, it can price-differentiate its service to that user.

Q: You talk about both Newshare and Clickshare. What is the difference?

A: Clickshare, the micro-transaction technology, is available to anyone who wants to enroll as a member and abide by the terms of the membership agreement. There are Publishing Members, who own content and may also have users and there are Technical Members, such as Internet Service Providers, who have users but may own no content. Members pay an one-time enrollment fee of $795, plus a $1 per year per enabled user. They also must pay a transaction fee when they sell a piece of information. That fee will be 15% or less of the total exchange. Clickshare(sm) can be used for exchange of any information (not just news) which can be formatted for acquisition "by the click" via the World Wide Web, including, potentially, downloadable software "applets."
Newshare, the Internet's first news brokerage, is a content-and-context-building service designed to allow independent publishers to promote the exchange of chargeable information among their user groups by acting as a "reference librarian" of Internet news resources. Newshare Publishing Members may be awarded territorial or subject-specific exclusivity for the use of the Newshare name and service concepts and Newshare publishing membership is by invitation only and reviewed on a periodic basis. Each Publishing Member must have the editorial "commitment to excellence" required for affiliation with the Newshare brand.

Q: There are a number of companies which are proposing to establish "E-cash" systems which charge Internet purchases to credit cards? What set's Clickshare(sm) apart and how can Clickshare(sm) be more economical than a credit-card transaction?

A: As a consumer, you may not realize that each time you use your credit card, the business selling you a good or service is paying at least 25 cents plus 2% of your

purchase for the privilege of getting paid by the credit-card issuer. While that is a trivial piece of major transactions, it renders small exchanges prohibitively expensive. The reason for the 25 cent base fee is that credit-card authorizations must travel across conventional telephone circuits, and there are unavoidable costs associated with this.

Clickshare, on the other hand, operates across the Internet, where the cost of carriage of information is not presently charged "a la carte." as with the phone system. The Internet's TCP/IP protocol is very efficient at moving tiny parcels of digital information compared with traditional telephone lines. Taking advantage of this, Clickshare(sm) is designed to bundle dozens or even hundreds of individual information purchases during a monthly span and then obtain the on-line consumer's approval to charge them in bulk via a credit-card network once per month. Only then does. the credit-card transaction have to go out on the traditional phone network. This results in a single credit-card transaction fee of 25 cents spread among many individual transactions and hence a highly efficient method of charging for information access.

At the outset, Clickshare(sm) will charge a 15% transaction fee to the buyers of information. This fee will actually be charged to an intermediary -- the Clickshare(sm) user's home Publishing Member -- who will apply it to the user's account.

Recalling that credit-card processors typically charge a flat fee of 25 to 30 cents per transaction and 1.5 to 2 percent of the total charge, a simple calculus will show that Clickshare(sm) at the outset will always be cheaper than a direct credit-card charge for purchases of approximately $2.00 or less. We anticipate the Clickshare(sm) system will be able to aggregate and clear transactions to the credit-card networks efficiently enough to be able to lower the 15% charge for larger-priced transactions.

So Clickshare(sm) is intended to work underneath and in collaboration with e-cash and credit-card implementations. It is a compatible technology which is not hooked to any specific E-cash implementation; it can work with all of them.

Q: In a sense, isn't the Internet today like the U.S. telephone system just after the turn of the century?

A: Yes. Think of the Internet protocol -- the language computers speak across the Internet -- as a common transfer mechanism for data much as copper wires were a common

transfer mechanism for voice in 1911. Everyone knew how to string to wires and make a phone connection after Alexander Graham Bell. But then how did you link together all those wires in a seamless grid such as we have today? And especially, how did you bill for all those calls that went from local telco to local telco to local "telco"?

In that era the answer was that the small companies first affiliated with the Bell System as franchisees and eventually were bought up and combined into AT&T. AT&T then developed a billing "standard" which by the 1960s made obsolete the need to have operators take billing information for a long-distance call. Ultimately AT&T was broken up, but the billing "standards" remain among AT&T, Sprint, MCI and the Baby Bells. Thus you can direct-dial a call across many networks and have the charges show up on one bill at the end of the month.

So Internet protocol for transferring information is like the copper wires. But like the early days of the phone system, no one has adopted, or even proposed prior to Clickshare(sm), a billing standard for the transfer of information on the Internet measured other than by time or by bulk subscription. We believe our Clickshare(sm) software, which will enter alpha testing after Sept. 29, is such a standard.

Q: You seem to be positioning Clickshare(sm) as the "pay per click" service. But don't consumers have an aversion to paying for things on a nickel-and-dime basis?

A: While Clickshare DOES enable payment "by the click," we anticipate that most publishers will still elect to provide their home-base users with a suite of information on a monthly subscription or "bulk" basis. However, any universal system of digital information exchange will have to value information "by the click" and provide for background settlement among publishers "by the click" if it is to function in a practical sense.

In most other media -- the telephone and cable networks come immediately to mind -- there are a variety of charging mechanisms and marketing strategies. But information is not like a sack of flour, a commodity where each grain is identical to the next. So it is not logical to think that it will be sold that way so long as there is another way to sell it.

In addition, whether consumers will resist paying for information when its value is measured in pennies rather than dimes or quarters is not yet documented, since prior to Clickshare(sm) and the Internet there was

no economical way to sell information in that price range on a point-to-point, rather than broadcast, basis.

Finally, it is very well documented that specialized consumers will happily "pay per query" for some types of information. Examples include some types of business and professional information, exclusive and analytical reports and information in some way personalized to the consumer's interests.

Q: How would a publisher use Clickshare(sm) and NOT charge its subscribers "by the click"?

A: Clickshare(sm) works in background to "transport" information about the value of a page access between the publisher (who gets a royalty), the referring home-base of the user (who gets a referral commission, sort of like being paid for creating a link). Whether the user's home-base Publishing Member bills that user per-click is another story. What has to happen for the system to function is that the content-originator gets a royalty-by-the-click and the referring publisher gets a commission-by-the-click.

A newspaper Publisher might decide that its Clickshare-enabled users can get all-the-can-eat surfing of Clickshare(sm) resources costing less than 50 cents per click for a flat fee of $15 a month on top of their basic $4.95 charge. Then the publisher would do a calculus to make sure that ON AVERAGE the extra $15 would cover the typical surfing charges. Maybe they would figure they would be paying out royalties and our transaction fees adding up to an average of $13 a month, so they pocket $2 per user.

In this scenario, the user has purchased "bulk access" to Clickshare resources, so should be free of that sense of paying "by the click."

This is the way we use telephone service, in some respects. Some telcos offer "metered" local service, but give you a preset amount of "message units" per month which you "use or lose." Clickshare(sm) could operate the same way. Our point is that these are marketing considerations for a local- or topic-specific Publishing Member, not for Newshare Corp. Our entire strategy is based upon empowering the publisher to control the user relationship.

Q: It is unclear to me after reading your web site's materials whether one must log in (enter password) for each web site visited.

A: No. And that is one of the key consumer-friendly features of Clickshare(sm). The

system allows you to maintain one registration that provides access to any publisher in the "Clickshare Universe" of publishers. You log in once, at your "home" publisher (the place you choose to have your credit relationship), who authenticates you. This begins a "session". From that point, for some determined time, you can get information from any other Clickshare-enabled site (and you're never prevented from getting information from a non-enabled site) without having to re-authenticate at every "front door".

Q: When a publisher's own user requests a page of information from that Publishing Member's local Clickshare(sm)-enabled server, are either the user or the publisher charged by Clickshare?

A: This is not a quick answer.

First, there are three types of content available on a Clickshare-enabled server:

Content not being tracked by the Clickshare system. We don't care how or if you are selling this.

Content being tracked by the Clickshare system but for which no "per-query" amount is being charged. We call this Page Class Level 0 for no charge. If we are tracking it, we will charge 1 cent per access (Because we have to have funds to support and make money on our back end which is

handling all the validation and clearance). It doesn't matter whether the Clickshare-enabled user is remote or local.

Content being track by the Clickshare system for which a "per-query" amount IS being charged. We get 15%, period. If you don't want to pay 15% to sell your own content to your own users, you can do one of two things:

Sell it "all you can eat" (by subscription) so that all you are charged by us is one cent per access.

Run it outside the Clickshare system for your local users and run it inside the Clickshare system for remote users. In this way, you will get no information (at least from Clickshare) about what your own users are looking at, and your own users WILL NOT be able to access content at other sites, potentially giving you a 35% referral commission each time they do.

Exhibits O and L provide the most compact discussions of

the Clickshare system and method, and accordingly have been

highlighted above. However, they have not been relied upon

alone. All Exhibits, when taken together, serve to document the

Newshare/Clickshare system and method as well as the nature of

the public use and "on-sale" activities.

Claims 1-8, 11-25, and 28-34, 63, 64, 66-72, and 74-82 are

rejected under 35 U.S.C. 102(b) as being anticipated by Exhibit

O.

Note: Exhibits A-P are printed publications which each
describe the Newshare/Clickshare invention and are dated more
than one year prior to March 7, 1997. Accordingly, each Exhibit
qualifies as prior art under 35 USC 102(b).

Exhibit O discloses, with reference to claim 1:

Preamble

> *Clickshare is <u>a complete, distributed, user-management</u>*
> *<u>system</u> which provides the only true <u>third-party validation</u>*
> *<u>of web usage</u>. It differentiates "eyeballs" rather than just*
> *counting them. It <u>protects personal privacy</u> and the*
> *publisher/subscriber relationship.*

Element (a)

> *"Clickshare's versatile architecture is core technology for a worldwide free market for digital communications -- a true information exchange," said Densmore.*

Element (b)

> *Clickshare has two principal components, Oliver says. Clickshare-enhanced Web server software runs on publishers' computers as a primary piece of controlling software or as an adjunct to other UNIX-based server software. It logs user registration, authentication, personalization and micro- transactions.*

> *Each user has a single "home base" at a Publishing Member (likely to be a local or specialty publication with whom they have a continuing relation). Clickshare users register just once with their home base, providing credit-card information by phone, fax, mail or secure Internet connection. At no time do credit-card numbers or other personal information traverse the Clickshare system.*

Element (c)

> *Clickshare tracks content served to users regardless of the location of their "home" Publishing Member. Aggregate micro- charges, settled monthly or more frequently, allocating commissions, royalties and transaction fees, thus form the basis of a system resembling an ATM network.*

Element (d)

> *A portion of all fees accumulated by a user for all visited Clickshare-enabled sites is retained by the user's home Publishing Member. This is termed a "referral commission." And Newshare retains a portion for its role in tracking and clearing transactions. At least 50 percent of each transaction goes to the content owner as a royalty.*

Element (e)

*Clickshare(SM) permits consumers to access information on
multiple, unrelated Internet Web servers with a single ID
and password. It gives publishers revenues not only from
their own information but from the information their users
buy elsewhere. And it gives advertisers the best way to
measure web traffic by specific user.*

Element (f)

*The second piece of essential software, the Clickshare
token-validation service (TVS) server, is run by Newshare
Corp. or licensees. It creates and validates authentication
tokens, brokers non-personal user preferences among
publishers, and maintains "page visit" records from
multiple independent sites sortable by anonymous user
number, page visited and site ID.*

Exhibit O further discloses:

Regarding claim 2

*The Clickshare-enhanced Web Server -- which is browser
independent -- is provided to Member Publishers by Newshare
Corp. free under license. Newshare's back-end service
network exchanges data with the Internet servers of
Clickshare-enabled sites, validating users and tracking all
discrete page accesses -- chargeable or free -- across
every participating site.*

*Clickshare leaves to each Publishing Member the marketing
contours of its relationship to its customers. Each
Publishing Member is thus free to use its own model for
user subscription or per-page rates.*

Regarding claim 3

*Thereafter, a user begins a Clickshare(sm) session as
simply as logging in to the online world in the first
place. The user must enter a personal ID and password just
once during each session. In response, their home
Publishing Member provides them a personalized, updated,*

*jumpoff page of useful links, based on the personal
topical-interest profile the user provided at initial
registration.*

Regarding claim 4

*Thereafter, a <u>user begins a Clickshare(sm) session</u> as
simply as <u>logging in to the online world</u> in the first
place. The <u>user must enter a personal ID and password just
once during each session</u>. In response, their <u>home
Publishing Member provides them a personalized, updated,
jumpoff page of useful links</u>, based on the personal
topical-interest profile the user provided at initial
registration.*

Regarding claim 5

*The second piece of essential software, the Clickshare
<u>token-validation service (TVS) server, is run by Newshare
Corp. or licensees</u>. It <u>creates and validates authentication
tokens, brokers non-personal user preferences among
publishers, and maintains "page visit" records from
multiple independent sites sortable by anonymous user
number, page visited and site ID</u>.*

*"At no time does Clickshare know a <u>user's name or
demographic profile</u>," says Oliver. "<u>Only the user's home-
base publisher has this information</u>."*

*As they <u>browse effortlessly to Clickshare-enabled and other
sites</u>, users can be confident that <u>the link between their
identity and their tracks does not go beyond their home
Publisher</u>. Clickshare provides <u>mechanisms to establish
charge limits and receive periodic reports of charges</u>.*

Regarding claim 6

*Thereafter, a <u>user begins a Clickshare(sm) session</u> as
simply as <u>logging in to the online world</u> in the first
place. The <u>user must enter a personal ID and password just
once during each session</u>. In response, their <u>home
Publishing Member provides them a personalized, updated,</u>*

*jumpoff page of useful links, based on the personal
topical-interest profile the user provided at initial
registration.*

Regarding claim 7

*The second piece of essential software, the Clickshare
token-validation service (TVS) server, is run by Newshare
Corp. or licensees. It creates and validates authentication
tokens, brokers non-personal user preferences among
publishers, and maintains "page visit" records from
multiple independent sites sortable by anonymous user
number, page visited and site ID.*

Regarding claim 8

*The Clickshare-enhanced Web Server -- which is browser
independent -- is provided to Member Publishers by Newshare
Corp. free under license. Newshare's back-end service
network exchanges data with the Internet servers of
Clickshare-enabled sites, validating users and tracking all
discrete page accesses -- chargeable or free -- across
every participating site.*

Regarding claim 11

*The Clickshare-enhanced Web Server -- which is browser
independent -- is provided to Member Publishers by Newshare
Corp. free under license. Newshare's back-end service
network exchanges data with the Internet servers of
Clickshare-enabled sites, validating users and tracking all
discrete page accesses -- chargeable or free -- across
every participating site.*

Regarding claim 12

*The Clickshare-enhanced Web Server -- which is browser
independent -- is provided to Member Publishers by Newshare
Corp. free under license. Newshare's back-end service
network exchanges data with the Internet servers of*

Clickshare-enabled sites, validating users and tracking all discrete page accesses -- chargeable or free -- across every participating site.

Regarding claim 13

Clickshare(SM) permits consumers to access information on multiple, unrelated Internet Web servers with a single ID and password. It gives publishers revenues not only from their own information but from the information their users buy elsewhere. And it gives advertisers the best way to measure web traffic by specific user.

Each user has a single "home base" at a Publishing Member (likely to be a local or specialty publication with whom they have a continuing relation). Clickshare users register just once with their home base, providing credit-card information by phone, fax, mail or secure Internet connection. At no time do credit-card numbers or other personal information traverse the Clickshare system.

Clickshare tracks content served to users regardless of the location of their "home" Publishing Member. Aggregate micro- charges, settled monthly or more frequently, allocating commissions, royalties and transaction fees, thus form the basis of a system resembling an ATM network.

A portion of all fees accumulated by a user for all visited Clickshare-enabled sites is retained by the user's home Publishing Member. This is termed a "referral commission." And Newshare retains a portion for its role in tracking and clearing transactions. At least 50 percent of each transaction goes to the content owner as a royalty.

Regarding claim 14

The second piece of essential software, the Clickshare token-validation service (TVS) server, is run by Newshare Corp. or licensees. It creates and validates authentication tokens, brokers non-personal user preferences among publishers, and maintains "page visit" records from

> *multiple independent sites sortable by anonymous user*
> *number, page visited and site ID.*

Regarding claim 15

> *Thereafter, a user begins a Clickshare(sm) session as*
> *simply as logging in to the online world in the first*
> *place. The user must enter a personal ID and password just*
> *once during each session. In response, their home*
> *Publishing Member provides them a personalized, updated,*
> *jumpoff page of useful links, based on the personal*
> *topical-interest profile the user provided at initial*
> *registration.*
>
> *As they browse effortlessly to Clickshare-enabled and other*
> *sites, users can be confident that the link between their*
> *identity and their tracks does not go beyond their home*
> *Publisher. Clickshare provides mechanisms to establish*
> *charge limits and receive periodic reports of charges.*
>
> *The Clickshare-enhanced Web Server -- which is browser*
> *independent -- is provided to Member Publishers by Newshare*
> *Corp. free under license. Newshare's back-end service*
> *network exchanges data with the Internet servers of*
> *Clickshare-enabled sites, validating users and tracking all*
> *discrete page accesses -- chargeable or free -- across*
> *every participating site.*
>
> *Clickshare tracks content served to users regardless of the*
> *location of their "home" Publishing Member. Aggregate*
> *micro- charges, settled monthly or more frequently,*
> *allocating commissions, royalties and transaction fees,*
> *thus form the basis of a system resembling an ATM network.*

Regarding claim 16

> *Beyond the model of payment for access to information,*
> *because it tracks known users (rather than Internet*
> *Protocol (IP) numbers), Clickshare may also serve as a*
> *third-party circulation/viewership auditing mechanism for*
> *the advertising and publishing industry, while leaving to*

> users control of release of demographic and other data, and
> respecting their desires for privacy.

Regarding claim 17

> As they browse effortlessly to Clickshare-enabled and other
> sites, users can be confident that the link between their
> identity and their tracks does not go beyond their home
> Publisher. Clickshare provides mechanisms to establish
> charge limits and receive periodic reports of charges.
>
> The Clickshare-enhanced Web Server -- which is browser
> independent -- is provided to Member Publishers by Newshare
> Corp. free under license. Newshare's back-end service
> network exchanges data with the Internet servers of
> Clickshare-enabled sites, validating users and tracking all
> discrete page accesses -- chargeable or free -- across
> every participating site.
>
> A portion of all fees accumulated by a user for all visited
> Clickshare-enabled sites is retained by the user's home
> Publishing Member. This is termed a "referral commission."
> And Newshare retains a portion for its role in tracking and
> clearing transactions. At least 50 percent of each
> transaction goes to the content owner as a royalty.

Regarding claims 18-25, and 28-34

These claims are method claims which closely parallel

system claims 1-8, and 11-17. These claims are rejected on

grounds similar to those discussed above with regard to such

system claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

Claims 9, 10, 26, 27 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Exhibit O in view of Exhibit L.

Regarding claims 9 and 26

Exhibit O does not disclose the return of pricing and

service-class information.

However, Exhibit L discloses:

*Q: What about charging different prices to different users
and for different types of information?*

*A: No problem. Embedded in the Clickshare(sm) system is the
ability to delineate "page classes" which have different
retail values. This permits a Publishing Member, for
example, to have "tiers" of service. One tier might be free
content open to the public. The next "tier" might be
content open at no charge solely to Clickshare(sm) enabled
users. Another "tier" might be open to the Publisher
Member's own local users for a monthly flat subscription
fee -- and charged "by the click" to remote Clickshare(sm)
users. And a final tier might be charged to all users, but*

> *at a different price depending whether the user is local or*
> *remote. Since the Clickshare(sm) server can identify the*
> *"class" of an incoming user, it can price-differentiate its*
> *service to that user.*

It would have been obvious to one of ordinary skill in the
art to have provided the system and method already disclosed in
Exhibit O to have included the return of preference, pricing and
service-class information about the requesting client in order
to differentiate clients associated with service tiers for the
purposes of access and billing.

Regarding claims 10 and 27

Neither Exhibit O nor Exhibit L teach utilizing User
Datagram Protocol to accomplish acceptance.

However, the further modification of the combined system
and method of Exhibits O and L would have been an obvious matter
of protocol choice to one of ordinary skill in the art which
would not have otherwise affected or effected the system and
method already taught.

Claims 35-62 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Exhibit O in view of Teper (U.S. Patent No.
5,815,665).

Although Exhibit O discloses a token validation service, Exhibit O is silent to a challenge-response protocol.

Teper, however, in a similar system and method (col. 1, lines 7-11), teaches a verification means including a token and an authentication server adapted to allow each provider to determine if a particular client is a member of the system, verify that the client has authenticated at his home provider, and determine this client's access or service privileges and criteria (col. 5 lines 30-37 and 45-48; col. 6 lines 53-61). The verification means employs a challenge-response protocol (see col. 3, lines 5-52).

It would have been obvious to one of ordinary skill in the art to have provided the system and method disclosed in Exhibit O to have included the challenge-response protocol taught by Teper in order to have realized the validation of the tokens disclosed in Exhibit O using a known challenge-response protocol of the type taught by Teper.

Claims 65, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Exhibit O and Teper (U.S. Patent No. 5,815,665), as applied to claims 64 and 71, respectively, and further in view of Exhibit L.

The combination of Exhibit O and Teper does not provide a billing viewer application.

Exhibit L, however, discloses that "Clickshare(sm) is designed to bundle dozens or even hundreds of individual information purchases during a monthly pan and then obtain the on-line consumer's approval to charge them".

It would have been obvious to one of ordinary skill in the art to have provided the combination of Exhibit O and Teper to have included a billing viewer application in order that a consumer may first view an itemization of recorded purchases prior to authorizing the charge for such purchases to a credit network.

Response to Arguments

Applicant's arguments filed March 7, 2005 have been fully considered but they are not persuasive.

Applicant remarks that "the October 24, 1995 disclosure, and accompanying 'use' where somewhat incomplete as compared to the final version". Applicant cites a portion of the October 24, 1995 disclosure that states that "[t]ransaction-handling capabilities, and an initial base of Publishing Members, will be launched in early 1996". Applicant offers that "this

publication makes clear that the system as contemplated by the

claims was NOT then available for public sale or use, since

elements (c) and (d) of claim 1 and 18, were not available in

the test, and further that the system and method were available

for alpha test (without fee, and thus without an accompanying

'sale' or 'offer for sale')."

The Examiner maintains that the activities evidenced by the

various Newshare/Clickshare Exhibits show that the invention, as

claimed, was both the subject of a "commercial offer for sale"

and "ready for patenting" more than one year prior to March 7,

1997. Further the Examiner maintains that any public use more

than one year prior to March 7, 1997 was not of a permitted

"experimental use", but rather, was a commercial exploitation of

the invention for the purposes of stimulating membership

interest in the Clickshare system.

The Exhibits regarding the Newshare/Clickshare invention

prior to March 7, 1996 (the critical date) serve to establish

the various features of the instant invention in both structure

and function. Strict identity is not required. In re Smith,

714 F.2d 1127, 218 USPQ 976 (CAFC 1983).

Of particular interest here is the reference "Questions

often asked by prospective Clickshare publishers"; Copyright

1995. Reported in this reference are a plurality of questions

that are assembled as those most often asked (i.e. Frequently

Asked Questions (FAQs)) of Newshare by its prospective clients.

One such question follows:

"Q: Can a content provider enroll now in the Newshare
system? What are the benefits?".

The answer to this question is:

"A: Yes. Newshare Corp. is already enrolling beta
Publishing Members with payment of a $100 fee prior to the
availability of the Clickshare(sm) 'charge-per-click'
server software. There are several benefits to enrollment
in advance of the charge-per-page service operation:

-        The right to participate in the design of ancillary
         details of the technical and editorial context
         services.

-        Designation, for a negotiated fee, as a 'lead
         Publishing Member' in at least one Newshare Syndicate
         topic area. This results in top-level referrals from
         Newshare topic pages when users request customer
         information."

This particular question/answer is particularly revealing

as to the nature of the activity.

It is apparent that Newshare Corp. has engaged in past

sales of their Clickshare service ("Newshare Corp. is already

enrolling beta Publishing Members with payment of a $100 fee")

and is soliciting further sales ("There are several benefits to

enrollment...").

It is apparent that the intent of the beta testing was not

a *bona fide* effort to perfect the invention or to ascertain

whether it will answer its intended purpose. As noted, the beta

test was advertised for the purpose of collecting input for the

design of "ancillary details". The search for resolution of

merely "ancillary details" implies that Clickshare was beyond a

state at which it was reducing the system to practice, but was,

rather, establishing a period in which they could solicit

feedback regarding suitability of the system for assessing

customer needs. LaBounty Mfg. Inc. v. United States ITC, 958

F.2d 1066 (Fed. Cir. 1992). Further, it is apparent that each

phase of the testing was entered with confidence that the

testing would vindicate the completeness of Applicant's system

and that there was no apparent concern that any phase of the

testing would result in any critical need for a perfection of

the Clickshare system beyond an optimization of the "ancillary

details" of the system presented for testing.

It is apparent that earliest commercial exploitation of the

Clickshare system accompanied every phase of the Clickshare

system development. For example, discussions of alpha and beta

testing are often accompanied by details of the system's

services and user price schedules. Such overt commercial

exploitation cannot be viewed as being unintended or incidental
(MPEP 2133.03(e)).

It is apparent that Applicant failed to maintain a required
measure of control of any purported "experimental use" of the
claimed invention throughout any phase of the Clickshare system
development. For example, Newshare/Clickshare openly broadcast
great detail concerning both the arrangement of the invention,
the intent of the invention, and the services offered by the
invention. Such broadcasts had the effect of generating
consumer interest in membership in the system--such as by
offering membership discounts as "early-in"-types of incentives.
Further, there is no evidence that either the alpha phase or the
beta phase testing subjected the participants to an obligation
of obligation or confidence. For example, Exhibit P offers
"immediate enrollment as a Publishing Member" and offers
reservations for "Charter Membership" which includes
"[i]mmediate member benefits" including "a free copy (under
license) of a Clickshare(sm)-enhanced NCSA server" which may be
used immediately to enroll users and provide them with a custom-
profiled Personal Newshare". Exhibit P contains no mention of
alpha- or beta-testing nor any mention of a confidentiality
agreement.

Any inquiry concerning this communication or earlier

communications from the examiner should be directed to Jeffrey

A. Smith whose telephone number is (571) 272-6763. The examiner

can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are

unsuccessful, the examiner's supervisor, Wynn Coggins can be

reached on (571) 272-7159. The fax phone number for the

organization where this application or proceeding is assigned is

703-872-9306.

Information regarding the status of an application may be

obtained from the Patent Application Information Retrieval

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access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jeffrey A. Smith
Primary Examiner
Art Unit 3625

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